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09/306,986

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THUAN QUOC TRINH

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65482 7590 09/23/2008

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EXAMINER

HUTSON, RICHARD G

ART UNIT

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MAIL DATE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THUAN QUOC TRINH and
CHRISTIAN ELLIOTT GRUBER

Appeal 2007-3369
Application 09/306,986
Technology Center 1600

Mailed: September 23, 2008

Before TONI R. SCHEINER, DEMETRA J. MILLS, and ERIC GRIMES,
Administrative Patent Judges.

MILLS, *Administrative Patent Judge.*

ORDER VACATING BOARD DECISION
AND ORDER DISMISSING APPEAL

Procedural History

On September 30, 2005, Appellants filed a Notice of Appeal. On July 25, 2006, prosecution was reopened and a non-final Office action was mailed. On

Appeal 2007-3369
Application 09/306,986

October 24, 2006, Appellants filed an Appeal Brief and a request to reinstate the appeal, and on July 6, 2007, a Docketing Notice from the Board of Patent Appeals and Interferences (hereinafter “Board”) was issued.

Sometime later, on January 14, 2008, Appellants filed a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114. Unaware of the RCE, the Board rendered a decision in the pending appeal on April 22, 2008, wherein the Board reversed the rejections on appeal and entered a new ground of rejection under 37 C.F.R. § 41.50(b).

Because the RCE was timely filed, it will be treated as a request to withdraw the appeal as reinstated on July 6, 2007. It is further noted that the RCE has been processed in the Technology Center and prosecution before the Examiner is proceeding. Thus, we dismiss the appeal and provide this notice that Appeal 2007-3369 is no longer pending before the Board. Moreover, in view of the RCE, the Board decision of April 22, 2008, is hereby vacated.

CONCLUSION

Accordingly, we hereby vacate the Board decision issued on April 22, 2008, and

ORDER that the Examiner dismiss the Appeal filed on September 30, 2005, and for such further action as may be appropriate.

DISMISSED

clj

Appeal 2007-3369
Application 09/306,986

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